

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, CIV
Brooklyn, NY 11202

Date: JAN 30 1998

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Employer Identification Number:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that your organization was incorporated on [REDACTED] under the [REDACTED].

The purposes for which the corporation was formed are:

1. To work with companies to help find resources.
2. To advise & consult to help companies improve their cash flow.
3. To advise other non-profit organizations to establish a financial base.

Your activities show that you will perform the following services for non-profit and minority businesses:

- Review financial data accounts receivable and accounts payable.
- Determine the best facility to work with them.
- The [REDACTED] will make contact with and visit the organizations in need of these services, and will be responsible for locating resources for each activity. Discussions, panels and lectures will be held to advise the community of the services available.

You have indicated that the primary source of financial support will be derived from fees charged for services and you will not actively solicit public support but do intend to receive grants. However, you have disclosed that your "grant income" actually represents finders fees. These fees will be paid to your organization by the exempt organization in amounts ranging from [REDACTED] of the grant received by the exempt organization.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under Section 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

B.S.W. Group, Inc. 70 TC 352, Dec. 35,175 holds that a corporation that planned on offering consulting services for fee to nonprofit, limited resource organizations engaged in various rural-related activities was not entitled to tax exempt status because it did not operate exclusively for charitable, educational or scientific purposes. In addition, the court determined that the taxpayer had completely failed to show that its own services would not be in competition with commercial businesses.

Rev. Rul. 72-369, 1972-2 CB 245 provides that an organization formed to provide managerial and consulting services for unrelated tax-exempt organizations for the purposes of improving administration of their charitable programs did not qualify as an organization exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code.

Like the organizations described above, your organization is organized to provide managerial and consulting services for a fee. You also disclosed in your Form 1023 application that your anticipated revenues will be from fees charged for services and finders fees. Your organization fails to meet the requirements of being organized and operated exclusively for exempt purposes as provided under section 1.501(c)(3)-1(a)(1) of the Internal Revenue Regulations.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination, you may request a conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determine that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

District Director

Enclosure: Publication 892